

ORIGINAL

SEALED

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

2020 OCT -6 AM 11:59

DEPUTY CLERK _____ GT

UNITED STATES OF AMERICA *ex rel.*
LEWIS EASTLICK, M.D.,

Plaintiffs,

v.

JAMES W. GALBRAITH, M.D.,

Defendant.

Civil Action No. 3:19-CV-00245-E

FILED IN SEALED CASE

UNITED STATES OF AMERICA'S NOTICE OF PARTIAL INTERVENTION

1. Pursuant to the False Claims Act, 31 U.S.C. §§ 3730(b)(2) and (4), the United States of America notifies the Court of its election to partially intervene in this civil action. In particular, the United States elects to intervene to assert claims against Trivikram Reddy (Reddy), and VCare Health Services PLLC, Texas Care Clinics PLLC, and Waxahachie Medical PLLC (collectively, the Clinics), that Reddy and the Clinics submitted or caused the submission of false claims to the United States by: (i) submitting claims for payments as though services had been provided by a physician—including Dr. James W. Galbraith—when the services were actually provided by an unsupervised nurse practitioner; and (ii) billing for services not rendered. The United States declines to intervene on any other claims asserted on its behalf in this action including, in particular, any claims asserted against Dr. James W. Galbraith. The United States intends to file a complaint in intervention, and requests that it be permitted to do so within (60) days of the filing of this Notice, or on or before December 7, 2020.

2. While the United States is declining to intervene at this time as to certain claims asserted on its behalf in this action, it would respectfully refer the Court to 31 U.S.C. § 3730(b)(1), which permits a relator to maintain the declined portion of the action in the name of the United States; providing, however, that the “action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.” *Id.* Therefore, the United States requests that, should either relator or any defendant propose that the non-intervened claims be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

4. The United States further requests that pursuant to 31 U.S.C. § 3730(c)(3), should this case continue as to the declined claims, relator and defendant serve all pleadings filed in this action upon the United States and all Orders issued by the Court also be sent to the undersigned counsel for the government.

5. The United States reserves its right to order any deposition transcripts related to the declined claims and to intervene on those claims, for good cause shown, at a later date pursuant to 31 U.S.C. § 3730(c)(3).

6. The United States reserves the right to seek the dismissal of the relator’s action or claim on any appropriate grounds, including under 31 U.S.C. §§ 3730(b)(5) and (e)(4).

7. The United States respectfully requests that only the Complaint, this Notice, and the attached proposed Order be unsealed and served upon the defendant. The United States asks that all other materials in this matter (including, but not limited to, any

applications and accompanying memoranda filed by the United States for an extension of time in which to intervene or for any other reason) remain under seal and not be made public or served on the defendant at any time because, in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

8. A proposed order accompanies this notice.

Respectfully submitted,

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UNITED STATES ATTORNEY



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Attorneys for the United States of America

CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2020, a copy of the foregoing pleading and proposed order were mailed by first class mail to counsel for Relator:

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ANDREW S. ROBBINS

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ORDER

The United States having intervened in part of this action pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(2) and (4), the Court **ORDERS** that:

1. The Relator's Complaint, the United States' Notice of Partial Intervention, and this Order be unsealed;
2. The United States file its Complaint in Intervention by December 7, 2020;
3. All other papers or orders on file in this matter shall remain under seal; and
4. The seal be lifted on matters occurring in this action after the date of this Order;
5. As to the part of the action in which the United States has declined to intervene, the parties shall serve all pleadings and motions filed in that part of the action, including supporting memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The United States may order any

deposition transcripts in the portion of this action in which it declined to intervene;

6. All orders of this Court shall be sent to the United States; and
7. Should the relator or defendant propose that the part of the action in which the United States has declined to intervene be dismissed, settled, or otherwise discontinued, the Court will solicit the written consent of the United States before ruling or granting its approval.

SO ORDERED; signed October __, 2020

ADA BROWN
UNITED STATES DISTRICT JUDGE